

REMARKS

Applicants thank the Examiner for consideration of the present application. The Office Action dated April 07, 2009 (hereinafter “the Office Action”) has been carefully reviewed. Claims 1-26 are pending in this application. Each of pending claims 1-26 stands rejected in the Office Action. Reconsideration of each of the rejected claims in light of the remarks presented herein is respectfully requested.

CLAIM OBJECTIONS

Claims 4 and 5 stand objected to for informalities. In particular, the Office Action objected to the use of the abbreviation “NA-ESRK.” Each of these claims has been amended to include the full spelling of “North American Emergency Service Routing Key.” Accordingly, Applicants believe this amendment overcomes the objections to claims 4 and 5.

CLAIM REJECTIONS UNDER 35 U.S.C. § 101

Each of claims 12-14, 17, and 20 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. In regard to these claims, the Office Action found that “‘computer programs’ do not define any structural and functional interrelationships between [the] computer program and other claimed elements of [the] computer which permit the computer program’s functionality to be realized.” Office Action, Page 2, lines 10-13. Claims 12, 17, and 20 have each been amended to recite “a computer readable medium carrying computer executable instructions.” Additionally, claim 13 has been amended to recite “a memory storage device having stored therein a computer program in machine readable form.” Computer readable mediums and memory storage devices are structural elements. As such,

Applicants believe these amendments overcome the Section § 101 rejections of claims 12, 13, 17, and 20. Claim 14 is hereby cancelled without prejudice or disclaimer of the subject matter.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Each of claims 1-3 and 6-26 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Lugo Saucedo (U.S. 7,155,201) in view of Houde (US 5,797,093). Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lugo Saucedo in view of Houde and in further view of Rhodes (US 6,922,565).

I. INDEPENDENT CLAIM 1

Independent claim 1 stands rejected as being unpatentable over Lugo Saucedo in view of Houde. Applicants respectfully traverse this rejection as improper because the Office Action failed to establish a proper *prima facie* case of obviousness based on the combination of Lugo Saucedo and Houde. Rather, the combination of Lugo Saucedo and Houde, and sub-combinations thereof, proposed by the Office Action is improper because the Office Action has failed to perform the factual inquiry as required under *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). In *KSR Int'l. Co. v. Teleflex, Inc. et al.*, 127 S.Ct. 1727 (2007), the United States Supreme Court clarified the test for obviousness. This decision has been codified for use by patent examiners throughout MPEP 2100. The Supreme Court in *KSR* reaffirmed that certain principles govern the analysis of obviousness, including the reaffirmation that the question of obviousness must be resolved on the basis of the factual inquiries identified in its *Graham* decision. The first of such factual inquiries is a determination of the scope and content of the prior art. In this regard, the Office Action did not properly evaluate the scope and content of Lugo Saucedo or Houde.

A. SCOPE AND CONTENT OF LUGO SAUCEDO

On pages 3 and 4, the Office Action asserts that Lugo Saucedo discloses each element of the independent claims except for “routing information.” Applicants respectfully disagree. Rather, Lugo Saucedo fails to disclose every element as asserted in the Office Action.

First, the Office Action asserts that Lugo Saucedo discloses “at a first network node, receiving location information relating to a subscriber originating a call.” In support of this assertion, the Office Action directs Applicants to Column 5, lines 52-55 and step 400 of FIG. 3 of Lugo Saucedo. Additionally, the Office Action identifies the MSC 42 of Lugo Saucedo as the “first network node.” Applicants respectfully disagree. Rather, as clearly set-forth in Lugo Saucedo, the mobile station 10 initiates an emergency call in step 400, which is transmitted to the MSC 42. Lugo Saucedo, Col 5, ll. 52-55. However, during this initiation process, no positional data related to the MS 10 is transmitted to the MSC 42. In fact, Lugo Saucedo teaches away from transmitting positional data during step 400, which is originated by Subscriber-B, because the location of interest in Lugo Saucedo is the location of Subscriber-A. *Id.* at ll. 55-61. Accordingly, no positional data related to MS 10 is received by the MSC 42 in step 400, contrary to the Office Action’s assertion.

The Office Action also asserts that Lugo Saucedo discloses “sending said location information from said first network node to a second network node.” In support of this assertion, the Office Action directs Applicants to step 420 of FIG. 3 and identifies MSC 44 as the “second network node.” Applicants again disagree. Rather, as clearly set-forth in Lugo Saucedo, the HRL 25 transmits a request for the location of the MS 10, not the location or location data itself, to the MSC 44 in step 420. Lugo Saucedo, Col 6, ll. 9-14. In fact, Lugo Saucedo teaches that the position of the MS 10 is only determined by the PDE 20 in step 450, which is subsequently

transmitted to the MPC 34. *Id.* at ll. 20-26. The MPC 34 forwards the position of the MS 10 to the MSC 44 in step 460. *Id.* at ll. 27-29. The MSC 44 subsequently transmits the position of the MS 10 to the HRL 25 in step 470. *Id.* at ll. 29-38. The HRL 25 forwards the position to the MSC 42 in step 480. *Id.* at ll. 38-41. However, Applicants have not found any teaching in Lugo Saucedo wherein the MSC 42 is disclosed as transmitting the position of the MS 10 to any other “node,” including the MSC 44.

Additionally, the Office Action asserts that Lugo Saucedo discloses “at said second network node, determining updated routing information based on said location information” and “sending said updated routing information from said second network node to said first network node.” In support of this assertion, the Office Action directs Applicants to step 450 of FIG. 3, column 6, lines 23-26 and to steps 460 and 470 of FIG. 3, column 6, lines 26-33, respectively. Applicants again disagree. Lugo Saucedo simply fails to disclose “determining updated routing information.” As discussed in the prior paragraph, the position of the MS 10 is determined in step 450 by the PDE 20 and transmitted to the MPC 34. However, the position of the MS 10 is simply not equivalent to “updated routing information.” Additionally, the steps 460 and 470 of FIG. 3 are directed to transmission of the position of the MS 10 to the MSC 44 and the HRL 25, respectively. No step described in Lugo Saucedo is directed to “determining updated routing information” or transmitting such “updated routing information” to other nodes.

Further, the Office Action asserts that Lugo Saucedo discloses “at said first network node, routing said call based on said updated routing information.” In support of this assertion, the Office Action directs Applicants to steps 480 and 490 of FIG. 3, column 6 lines 40-48. Again as discussed above, step 480 is directed to the transmission of the position of the MS 10 to the MSC 42. Subsequently, in step 490, the MSC 42 initiates a call to an Emergency

Service Network Entity. However, none of these steps disclose “determining updated routing information” or “routing said call based on said updated routing information”

It appears that the Office Action may be arguing that Lugo Saucedo implicitly discloses determining routing information in step 490 to facilitate the call to the Emergency Service Network Entity. Assuming “arguendo” that such an interpretation of Lugo Saucedo is proper, Lugo Saucedo would still fail to disclose determining “updated” routing information or routing information “based on said location information” as determined by the second node. That is, Lugo Saucedo discloses that the routing information is determined only once and only by MSC 42, which has been identified by the Office Action as the “first node.” Accordingly, even under the proposed implicit teaching, Lugo Saucedo still fails to teach “routing said call based on said updated routing information.”

In view of the foregoing, Applicants respectfully submit that the Office Action has failed to properly determine the scope and content of Lugo Saucedo. Because the Office Action has failed to properly determine the scope and content of Lugo Saucedo, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of independent claim 1 be withdrawn for at least this reason.

B. SCOPE AND CONTENT OF HOUDE

As discussed above, the Office Action concedes that Lugo Saucedo fails to disclose “routing information.” The Office Action relies on Houde to overcome this deficiency of Lugo Saucedo. In this regard, the Office Action asserts that:

In an analogous art, Houde teaches “routing an emergency cellular telephone call.” Further, Houde teaches serving MSC 12(1) as read on first node that routing emergency call to appropriate SMC 12(n) see Col. 3, lines 50-56, Fig. 1 illustrate and described).

Therefore, it would have been obvious at the time the invention was made to modify Lugo Saucedo with Houde's system such that receiving location information and then routing location information when the second node updated the location information in order to provide accurate location/position of the user where he/she making emergency call."

Office Action, Page 4, lines 10-18. However, nothing in the Office Action's above-quoted arguments nor in Houde itself discloses "routing said call based on said updated routing information." Rather, Houde is simply directed to the concept of routing a call based on the MSC associated with the cell in which the caller is currently located, not on the anchor MSC. Accordingly, when an emergency call is initiated, Houde teaches that the anchor MSC 12(1) routes the call to the public safety answering point system 24 associated with the serving MSC 12(2) (i.e., the MSC associated with the cell in which the caller is currently located):

The anchor mobile switching center 12(1) then accordingly handles the emergency call by routing the call to the public safety answering point system 24 for the serving mobile switching center 12(2) rather than to the public safety answering point system 24 for the anchor mobile switching center 12(1).

Houde, Col. 5, lines 47-52. As such, Houde teaches routing an emergency call, but simply fails to teach determining updated routing information and routing the call based on such routing information. That is, similar to Lugo Saucedo, Houde teaches determining routing information only once. Accordingly, Houde fails to overcome the deficiencies of Lugo Saucedo.

In view of the foregoing, Applicants respectfully submit that the Office Action has failed to properly determine the scope and content of Houde. Because the Office Action has failed to properly determine the scope and content of Houde, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of independent claim 1 be withdrawn for at least this reason.

II. INDEPENDENT CLAIMS 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26

Independent claims 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 also stand rejected as being unpatentable over Lugo Saucedo in view of Houde. All of the arguments presented above in regard to independent claim 1 are believed to be equally applicable to each of claims 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 and are expressly incorporated herein. Accordingly, for at least the reasons provided herein, the Office Action has failed to properly determine the scope and content of Lugo Saucedo and Houde. Because the Office Action has failed to properly determine the scope and content of Lugo Saucedo and Houde, Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of independent claims 6, 12, 13, 15, 17, 18, 20, 21, 23, 25, and 26 be withdrawn for at least this reason.

VI. DEPENDENT CLAIMS

Each of dependent claims 2-5 and 7-11 includes the limitations of independent claim 1. Additionally, each of dependent claims 16, 19, 22, and 24 includes all the limitations of, respectively, independent claims 15, 18, 21, and 23. For at least the reasons provided above, the combination of Lugo Saucedo and Houde fails to render independent claims 1, 15, 18, 21, and 23 obvious. As such, the proposed combination also fails to render dependent claims 2-5, 7-11, 16, 19, 22, and 24 obvious for at least the reasons provided above in regard to independent claims 1, 15, 18, 21, and 23. *See In re Fine*, 837 F.2d 1071, 1076 (Fed. Cir. 1988) ("Dependent claims are nonobvious under section 103 if the independent claims from which they depend are nonobvious."). In light of the reasons for withdrawal of the rejections of claims 1, 15, 18, 21, and 23 any arguments specific to claims 2-5, 7-11, 16, 19, 22, and 24 are held in abeyance without prejudice or admission to any assertion made by the Examiner in order to expedite prosecution.


CONCLUSION

In view of the foregoing, it is submitted that this application is in a condition for allowance. Action to that end is hereby solicited. If there are any questions or comments that would speed prosecution of this application, the Examiner is invited to call the undersigned at (317) 261-7959.

It is respectfully requested that this paper be considered as a petition for a one-month extension of time extending the deadline of this response to August 7, 2009. The Commissioner is hereby authorized to charge the fee of \$ 130.00 for this one-month extension of time, and any shortages or overpayments of fees, to Deposit Account No. 14-1315 with reference to file 16189IDUS03N.

Respectfully submitted,

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